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ABSTRACT

This publication is the National Energy Conservation Policy Act (P.L. 95-619). The purposes of this act are to provide for the regulation of interstate commerce, to reduce the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this nation and elsewhere, without inhibiting beneficial economic growth. Titles include: (1) Residential Energy Conservation; (2) Energy Conservation Programs for Schools and Hospitals and Buildings Owned by Units of Local Governments and Public Care Institutions; (3) Energy Efficiency of Certain Products and Processes; (4) Federal Energy Initiatives; and (5) Additional Energy-Related Measures. (Author/MR)

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PUBLIC LAW 95-619—NOV. 9, 1978

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NATIONAL ENERGY CONSERVATION POLICY ACT

39-139 O - 78 (542)

SE 025 986

Public Law 95-619
95th Congress

An Act

Nov. 9, 1978
[H.R. 5037]

For the relief of Jack R. Misner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Energy Conservation Policy Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "National Energy Conservation Policy Act".

(b) Table of Contents.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and statement of purposes.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

Part 1—Utility Program

Sec. 210. Definitions.
Sec. 211. Coverage.
Sec. 212. Rules of Secretary for submission and approval of plans.
Sec. 213. Requirements for State residential energy conservation plans for regulated utilities.
Sec. 214. Plan requirements for nonregulated utilities and home heating suppliers.
Sec. 215. Utility programs.
Sec. 216. Supply, installation, and financing by public utilities.
Sec. 217. Home heating supplier programs.
Sec. 218. Temporary programs.
Sec. 219. Federal standby authority.
Sec. 220. Relationship to other laws.
Sec. 221. Rules.
Sec. 222. Product standards.
Sec. 223. Authorization of appropriations.
Sec. 224. Report on energy conservation in apartment buildings.
Sec. 225. Federal Trade Commission study and report.

Part 2—Weatherization Grants for the Benefit of Low-Income Families

Sec. 231. Department of Energy weatherization grant program.
Sec. 232. Farmers Home Administration weatherization grant program.
Sec. 233. Availability of labor.

Part 3—Secondary Financing and Loan Insurance for Energy Conserving Improvements and Solar Energy Systems

Sec. 241. Loan insurance for energy conserving improvements and solar energy systems under title I of the National Housing Act.
Sec. 242. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 243. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.
Sec. 244. Purchase by Government National Mortgage Association of loans for solar energy systems.
Sec. 245. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 246. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.

Sec. 247. Loan insurance for energy conserving improvements and solar energy systems in multifamily projects under section 241 of the National Housing Act.
Sec. 248. Increase in mortgage limits to cover costs of solar energy systems.

PART 4—MISCELLANEOUS

Sec. 251. Energy-conserving improvements for assisted housing.
Sec. 252. Energy conserving standards for newly constructed residential housing insured by Federal Housing Administration or assisted by Farmers Home Administration.
Sec. 253. Residential energy efficiency standards study.
Sec. 254. Weatherization study.
Sec. 255. Authorization for appropriations for new building performance standards grants.

TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

PART 1—SCHOOLS AND HOSPITALS

Sec. 301. Statement of findings and purposes.
Sec. 302. Amendment to the Energy Policy and Conservation Act.
Sec. 303. Technical amendments.
Sec. 304. Cross reference.

PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Sec. 310. Statement of findings and purposes.
Sec. 311. Amendment to the Energy Policy and Conservation Act.
Sec. 312. Application of Davis-Bacon Act.

TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES

PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES

Sec. 401. Fuel economy information.
Sec. 402. Civil penalties relating to automobile fuel efficiency.
Sec. 403. Disclosure in labeling.
Sec. 404. Study.

PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 421. Test procedures.
Sec. 422. Energy efficiency standards.
Sec. 423. Assessment of civil penalties.
Sec. 424. Effect of standards on other laws.
Sec. 425. Technical and conforming amendments.
Sec. 426. Appropriations authorization.
Sec. 427. Effects of other laws on procedures.

PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

Sec. 441. Energy efficiency of industrial equipment.

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

Sec. 461. Use of recovered materials.

TITLE V—FEDERAL ENERGY INITIATIVES

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

Sec. 501. Conservation plan authorization.

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

Sec. 521. Definitions.
Sec. 522. Federal solar program.

Sec. 523. Duties of Secretary.
Sec. 524. Authorization of appropriations.

PART 3—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

Sec. 541. Findings.
Sec. 542. Policy.
Sec. 543. Purpose.
Sec. 544. Definitions.
Sec. 545. Establishment and use of life cycle cost methods.
Sec. 546. Energy performance targets for Federal buildings.
Sec. 547. Energy audits and retrofitting of existing Federal buildings.
Sec. 548. Leased Federal buildings.
Sec. 549. Budget treatment of energy conserving improvements by Federal agencies.
Sec. 550. Reports.
Sec. 551. Authorization of appropriations.

PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

Sec. 561. Short title of part.
Sec. 562. Definitions.
Sec. 563. Photovoltaic energy program.
Sec. 564. Purpose of program.
Sec. 565. Acquisition of systems.
Sec. 566. Administration.
Sec. 567. System evaluation and purchase program.
Sec. 568. Advisory committee.
Sec. 569. Authorization of appropriations.

TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES

PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING

Sec. 601. Industrial energy efficiency reporting.

PART 2—STATE ENERGY CONSERVATION PLANS

Sec. 621. State energy conservation plans.
Sec. 622. Supplemental State energy conservation plans.
Sec. 623. Report on coordination of energy conservation programs.

PART 3—MINORITY ECONOMIC IMPACT

Sec. 641. Minority economic impact.

PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

Sec. 661. Major fuel burning stationary source.

PART 5—STUDIES

Sec. 681. Off-highway motor vehicles.
Sec. 682. Bicycle study.
Sec. 683. Second law efficiency study.

PART 6—TECHNICAL AMENDMENTS

Sec. 691. Definition of Administrator.

SEC. 102. FINDINGS AND STATEMENT OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly

dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are to provide for the regulation of interstate commerce, to reduce the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this Nation and elsewhere, without inhibiting beneficial economic growth.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

PART 1—UTILITY PROGRAM

SEC. 210. DEFINITIONS.

As used in this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "load management technique" means any technique to reduce the maximum kilowatt demand on an electric utility, including ripple or radio control mechanisms, or other types of interruptible electric service, energy storage devices, and load limiting devices.

(3) The term "natural gas" means natural gas as defined in the Natural Gas Act.

(4) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(5) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

(6) The term "nonregulated utility" means a public utility which is not a regulated utility.

(7) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "residential building" means any building used for residential occupancy which—

(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply,

(B) contains at least one, but no more than four, dwelling units, and

(C) has a system for heating or cooling, or both.

(10) The term "residential customer" means any person to whom—

(A) a public utility sells natural gas or electric energy, or

(B) a home heating supplier supplies or sells home heating fuel (including No. 2 heating oil, kerosene, butane, and propane),

for consumption by such customer in a residential building.

(11) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces or boilers or any combination thereof which, as determined by the Secretary, substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed window and door materials;

(G) devices associated with load management techniques;

(H) devices to utilize solar energy or windpower for any residential energy conservation purpose, including heating of water, space heating or cooling; and

(I) such other measures as the Secretary by rule identifies for purposes of this part.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this Part unless such measure is warranted by the manufacturer to meet a specified level of performance over a period of not less than three years.

(12) The term "residential energy conservation plan" means a plan approved by the Secretary pursuant to section 212.

(13) The term "State" means a State, the District of Columbia, and Puerto Rico.

(14) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(15) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(16) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Secretary, in the rules prescribed pursuant to section 212, determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Secretary shall consider the cost of the

inspection offered under section 215(b)(1)(A) and its effect on the willingness of residential customers to participate in the utility program.

(17) The term "utility program" means a program meeting the requirements of section 215.

(18) The term "Governor" means the Governor or chief executive officer of a State or his designee.

(19) The term "home heating supplier program" means a program meeting the requirements of section 217.

(20) The term "home heating supplier" means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to a residential customer for consumption in a residential building.

SEC. 211. COVERAGE.

(a) IN GENERAL.—This part shall apply in any calendar year to a public utility only if during the second preceding calendar year either—

(1) sales of natural gas by such public utility for purposes other than resale exceeded 10 billion cubic feet, or

(2) sales of electric energy by such public utility for purposes other than resale exceeded 750 million kilowatt-hours.

(b) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each public utility to which this part applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each public utility on the list for which such State regulatory authority has ratemaking authority.

SEC. 212. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

(a) PROMULGATION OF RULES BY SECRETARY.—The Secretary shall, not later than 45 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans which meet the requirements of sections 213 and 214. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce (acting through the National Bureau of Standards), the Federal Trade Commission, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Secretary shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF SECRETARY'S RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary may deem appropriate;

(2) shall include—

(A) standards which the Secretary determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Secretary determines necessary for installation of any residential energy conservation measure;

(C) standards for the procedures concerning fair and reasonable prices and rates of interest required under section 213(a)(4);

(D) standards, developed in consultation with the Federal Trade Commission, concerning unfair, deceptive, or anticompetitive acts or practices, for the measures required under section 213(b);

(E) standards which (i) require the lists referred to in section 213(a)(2) (concerning lists of suppliers and contractors) and 213(a)(3) (concerning lists of lending institutions) to be prepared in a fair, open, and nondiscriminatory manner and (ii) provide for the removal, in appropriate cases, of suppliers, contractors, or lending institutions from such lists; and

(F) standards which assure that any person who alleges any injury resulting from a violation of the requirements of the standards under subparagraph (E) shall be entitled to redress under procedures established by the Governor (or the Secretary in any case in which section 219, relating to Federal standby authority applies); and

(3) may include such other requirements as the Secretary may determine to be necessary to carry out this part.

(c) PROCEDURE FOR SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1)(A) Not later than 180 days after promulgation of rules under subsection (a), the Governor of each State or any State agency specifically authorized to do so under State law, may submit to the Secretary a proposed residential energy conservation plan which meets the requirements of the rules promulgated under subsection (a). Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under subsection (a), to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in paragraph (2). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend, for good cause shown, the time period for submission of a plan.

(B) Each such plan shall be reviewed and approved or disapproved by the Secretary not later than 90 days after submission. If the Secretary disapproves a plan, the Governor or State agency or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Secretary may, for good cause, allow. The Secretary shall review and approve or disapprove any such new or amended plan not later than 90 days after submission.

(C) After approval of a plan, a Governor or State agency or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) Any plan submitted by a Governor or State agency under paragraph (1) may, in the discretion of the Governor, if he notifies the

Secretary within 30 days after promulgation of rules under subsection (a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case references elsewhere in this part to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this part to nonregulated utilities shall not apply. For purposes of this paragraph, the term "nonregulated utility" shall not include any public utility which is a Federal agency.

(3) A plan applicable to home heating suppliers may be submitted by the Governor in his discretion.

(4) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

SEC. 213. REQUIREMENTS FOR STATE RESIDENTIAL ENERGY CONSERVATION PLANS FOR REGULATED UTILITIES.

(a) GENERAL REQUIREMENTS.—No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan—

(1) requires each regulated utility to implement a utility program which meets the requirements of section 215 (except such requirements of section 215 as do not apply by reason of section 216(f)) and contains adequate State enforcement procedures in connection with such implementation;

(2) provides a procedure for permitting any supplier or contractor—

(A) who sells or installs residential energy conservation measures in the area served by such utility, and

(B) who meets such minimum requirements as may be contained in rules promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(3) provides a procedure for permitting any bank, savings and loan association, credit union, or other public or private lending institution which—

(A) offers loans for the purchase and installation of residential energy conservation measures in the areas served by such utility and

(B) which meets such minimum requirements as may be promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(4) provides adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest to its residential customers under such utility program in connection with the purchase and installation of residential energy conservation measures;

(5) provides procedures for resolving complaints against persons who sell or install residential energy conservation measures under such program;

(6) provides procedures for insuring that effective coordina-

tion exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Secretary of Energy;

(7) is adopted after notice and public hearings; and

(8) meets such other requirements as may be contained in the rules promulgated under section 212.

(b) Requirements Concerning Unfair, Deceptive, or Anticompetitive Acts or Practices.—

(1) No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains adequate measures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State.

(2) The measures under paragraph (1) shall include—

(A) provisions to assure that, in carrying out procedures under section 215(b)(1) (or the corresponding procedures in section 217) the regulated utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not unfairly discriminate among measures which are purchased from, or installed by, any person under such program, and

(B) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, or make, install, or inspect any furnace efficiency modification referred to in section 210(11)(B), unless the residential customer requests (in writing) such inspection, installation, or modification.

(c) Redress.—No residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress under such procedures as may be established by the Governor or State agency.

SEC. 214. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND HOME HEATING SUPPLIERS.

(a) Requirements for Plans for Nonregulated Utilities.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213 for regulated utilities and in addition contains procedures pursuant to which such utility will submit a written report to the Secretary not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of a utility program under section 215 and containing such information as may be required by the Secretary in the rules promulgated under section 212. In applying the requirements of section 213 in the case of a plan for nonregulated utilities under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility.

(b) REQUIREMENTS FOR PLANS FOR HOME HEATING SUPPLIERS.—No residential energy conservation plan proposed for home heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213(a) (other than paragraphs (1) and (8) thereof) and section 213(b) and (c) and in addition—

(1) meets the requirements of section 217 and contains adequate enforcement procedures with respect to such requirements;

(2) meets such requirements applicable to home heating suppliers as may be contained in the rules promulgated under section 212; and

(3) takes into account the resources of small home heating suppliers.

In applying the requirements of section 213 in the case of a plan for home heating suppliers under this section, any reference to a regulated utility shall be treated as a reference to the home heating supplier and any reference to a utility program shall be treated as a reference to a home heating supplier program.

SEC. 215. UTILITY PROGRAMS.

(a) INFORMATION REQUIREMENTS.—Each utility program shall include procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(1) the suggested measures for the category of buildings which includes such residential building;

(2) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(3) the availability of the arrangements described in subsection (b) and the lists referred to in section 213(a)(2) and (3); and

(4) suggestions of energy conservation techniques, including suggestions developed by the Secretary, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the savings in energy costs that are likely to result from the adoption of such suggestions).

(b) PROJECT MANAGER REQUIREMENTS.—Each utility program shall include—

(1) procedures whereby the public utility, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, will, for each residential customer who owns or occupies a residential building, offer to—

(A) inspect the residential building (either directly or through one or more inspectors under contract) to determine and inform the residential customer of the estimated cost of purchasing and installing the suggested measures and the savings in energy costs that are likely to result from the installation of such measures (a report of which inspection shall be kept on file for not less than 5 years which shall be available to any subsequent owner without charge), except that a utility shall be required to make only one inspection of a residence unless a new owner requests a subsequent inspection;

(B) arrange to have the suggested measures installed (except for furnace efficiency modifications with respect to which the inspection prohibition of section 213(b)(2)(B) applies, unless the customer requests in writing arrangements for such modifications in writing); and

(C) arrange for a lender to make a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(2) procedures whereby the public utility provides to each of its residential customers the lists as described in section 213(a)(2) and (3).

(c) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—(1) Each utility program shall include—

(A) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 219(d)) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility;

(B) procedures to assure that all amounts expended by a utility for providing information under subsection (a) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service;

(C) procedures to permit general administrative costs of carrying out a utility program and the amounts expended by a public utility to carry out subsection (b) to be, in the discretion of the State regulatory authority (or in the case of a nonregulated utility, in the discretion of such nonregulated utility)—

(i) treated as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service, or

(ii) charged to the residential customer for whom the activity is performed; and

(D) procedures to assure that the costs of labor and materials incurred by a utility for the purchase or installation of any residential energy conservation measure shall be charged to the residential customer for whom such activity is performed.

(2)(A) The costs of carrying out any activity as a part of a utility program under this section (other than an activity described in subparagraph (B), (C), or (D) of paragraph (1)) shall be charged to the residential customer for whom such activity is performed, unless (and to the extent that) the State regulatory authority or nonregulated utility (as the case may be) finds, after public notice and an opportunity for a public hearing, that treatment of such costs in the manner described in clause (i) of paragraph (1)(C) is likely to result (by reason of reduction in demand for energy) in lower rates to the ratepayers of such utility than would occur if the utility did not treat such costs in the manner described in such clause. Any such costs with respect to which such finding is made shall be treated in the manner described in clause (i) of paragraph (1)(C).

(B) Any portion of the costs of carrying out any activity as a part of a utility program under this section which are charged to the residential customer for whom such activity is performed and included on a billing for utility service submitted by the utility to such residential customer shall be stated separately on such billing from the cost of providing utility service.

(C) For purposes of this subsection, the term "ratepayer" means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility.

(d) Requirements Respecting New Customers.—In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980 (or the date six months after approval of the applicable plan, if later), and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subsection (a), the offer required under subsection (b)(1)(A), and shall offer such person the opportunity to enter into arrangements referred to in subparagraphs (B) and (C) of subsection (b)(1).

(e) Termination of Service.—No utility implementing any program under this section may terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(f) Loans.—(1) In the case of any loan made by a public utility (as may be permitted under subsection (c), (d)(1), (d)(2), or (e) of section 216) to a residential customer under a utility program under this part, the public utility carrying out such program shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he elects a shorter payment period). In the case of a loan made by any other person, the public utility shall permit repayment of the loan as part of the periodic bill if such other person agrees to repayment in such manner.

(2) In the case of any loan referred to in paragraph (1)—

(A) a lump-sum payment of outstanding principal and interest may be required by the lender upon default (as determined under otherwise applicable law) in payment by the residential customer, and

(B) no penalty shall be imposed by the lender for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(g) Exempt Activities.—For purposes of this section, the term "utility program" includes activities which are subject to this section by reason of section 216(f).

SEC. 216. SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES.

(a) Prohibition on Supply, Installation, or Financing.—Except as provided in this section, no public utility may—

(1) supply or install a residential energy conservation measure, or

(2) make a loan to any residential customer for the purchase or installation of any residential energy conservation measure.

(b) Exemption From Prohibition on Installation.—The prohibition contained in subsection (a)(1) shall not apply to the energy conservation measures referred to in section 210(11)(B) or 210(11)(C), or devices associated with load management techniques for the type of energy sold by the utility.

(c) EXEMPTION FROM PROHIBITION ON FINANCING.—The prohibition contained in subsection (a)(2) shall not apply to any loan to a residential customer which does not exceed the greater of—

(1) $300, or

(2) the cost of purchase, and installation in such customer's residence, of items referred to in subsection (b).

(d) GENERAL EXEMPTIONS.—The prohibitions contained in subsection (a) shall not apply to—

(1) the supply, installation, or financing of those specific residential energy conservation measures which the Secretary determines were being installed or financed by a public utility on the date of enactment of this Act;

(2) supply, installation, or financing activities which the Secretary determines were broadly advertised or for which substantial preparations were completed on or before the date of enactment of this Act; or

(3) supply, installation, or financing activities by a public utility with respect to energy conservation measures where a law or regulation in effect on or before the date of enactment of this Act either requires, or explictly permits, the public utility to carry out such activities.

(e) WAIVER.—The Secretary may, upon petition of a public utility, supported in the case of a regulated utility by a Governor, waive in whole or in part the prohibitions contained in subsection (a) with respect to the utility if such utility demonstrates to the satisfaction of the Secretary that, in carrying out prohibited activities under subsection (a), fair and reasonable prices and rates of interest would be charged and the Secretary finds, after consultation with the Federal Trade Commission, that such activities would not be inconsistent with the prevention of unfair methods of competition and the prevention of unfair or deceptive acts or practices.

(f) APPLICABILITY OF SECTION 215.—Any public utility carrying out activities permitted under subsection (b) or (c) or subsection (d)(2) or (e) of this section shall be subject to all the requirements of section 215 with respect to such activities. A public utility which is carrying out activities permitted pursuant to subsection (d)(1) shall, within such reasonable period as may be prescribed by the Secretary, be subject to all such requirements of section 215 with respect to such activities. A public utility carrying out activities permitted pursuant to the exemption contained in subsection (d)(3) shall not be subject to the requirements of section 215 with respect to such activities.

(g) PROHIBITION ON SUPPLY, INSTALLATION OR FINANCING BY UTILITIES.—After the date of the enactment of this Act, no public utility may make any loan, to finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

(1) such loans are being made, or supply or installations carried out by such utility at unreasonable rates or on unreasonable terms and conditions, or

(2) such loans made, or supply or installations carried out by such utility, have a substantial adverse effect upon competition.

(h) Enforcement.—For purposes of section 219(d), any violation of a prohibition contained in this section shall be treated as a violation of a plan promulgated under section 219(a).

SEC. 217. HOME HEATING SUPPLIER PROGRAMS.

(a) Requirements.—Each home heating supplier program shall include—

(1) procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each residential customer of each participating home heating supplier who owns or occupies a residential building of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection; and

(2) procedures whereby a participating home heating supplier, no later than January 1, 1980 (or the later date referred to in paragraph (1)) will offer each such residential customer the opportunity to enter into arrangements with the home heating supplier under which such supplier, directly or through one or more inspectors under contract, will—

(A) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing, and the savings in energy costs that are likely to result from installing, suggested measures;

(B) inform each interested customer of the lists referred to in section 213(a) (2) and (3);

(C) install or have suggested measures installed;

(D) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(E) permit the residential customer to repay the principal of and interest on any loan made pursuant to subparagraph (D) (over a period of not less than three years unless the customer elects a shorter payment period) as a part of his periodic bill except:

(i) failure to make any payment of such principal or interest shall not be grounds for the termination of fuel deliveries to the residential customer; and

(ii) a lump-sum payment of outstanding principal and interest may be required upon default (as determined under otherwise applicable law) in payment by the residential customer.

No penalty shall be imposed by the lender, under procedures described in paragraph (2), for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(b) Notice; Waiver.—A home heating supplier who wishes to participate in the program established pursuant to this section may so notify the Governor. The Governor may waive, for any home heating supplier, any requirement of this section, upon demonstration to his satisfaction that the resources of such supplier do not enable him to comply with such requirement.

SEC. 218. TEMPORARY PROGRAMS.

(a) Exemption From Certain Requirements.—A Governor of any State, on behalf of one or more utilities, or any public utility (supported by the Governor in the case of a regulated utility) may, no later than 180 days after the promulgation of rules pursuant to section 212, apply for a temporary exemption for one or more utilities from one or more of the requirements of section 215 and the prohibitions contained in section 216(a). Such temporary exemption may be granted, as determined by the Secretary, for a period not to exceed 3 years after the date of approval of such exemption.

(b) Time Limit.—An application for an exemption under subsection (a) shall be approved or disapproved by the Secretary within 90 days of receipt of such application or such longer period as the Secretary may require in the case of any particular application.

(c) Information.—An application for an exemption under subsection (a) to establish a temporary program shall contain such information and meet such requirements as the Secretary shall prescribe by rule.

(d) Requirements.—In order for an application for an exemption under subsection (a) to be granted, the Governor or the public utility shall demonstrate to the satisfaction of the Secretary that the temporary program will:

(1) contain adequate procedures to assure that each public utility, in connection with such program, will charge fair and reasonable prices and rates of interest to its residential customers in connection with the purchase and installation of residential energy conservation measures;

(2) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) be likely to result in the installation of suggested measures in at least as many residential buildings as would have been installed had such utility submitted a program which met the requirements of section 215 and did not violate the prohibitions contained in section 216(a).

(e) Federal Standby Authority.—The Secretary shall not exercise the Federal standby authority, pursuant to section 219 (a) or (b) with respect to any public utility which is covered by a temporary exemption approved by the Secretary pursuant to this section. Upon termination of such temporary exemption, the Secretary shall exercise such authority unless, within such period as he deems reasonable after such termination, the State (or nonregulated utility as the case may be) has a plan applicable to such utility approved under section 212 and such plan is being adequately implemented (as determined by the Secretary).

SEC. 219. FEDERAL STANDBY AUTHORITY.

(a) Standby Authority for State Regulated Utilities.—If a State does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a), or within such additional period as the Secretary may allow pursuant to section 212 (c)(1), or if the Secretary determines, after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

(1) promulgate a plan which meets the requirements of section 213, and

(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except with respect to a utility for which such requirements are inapplicable by reason of section 216(f)).

For purposes of applying section 213(c) in the case of a plan promulgated by the Secretary under this section, the references to the Governor or State agency shall be treated as references to the Secretary.

(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 212 does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a) or within such additional period as the Secretary may allow pursuant to section 212(c)(1), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility to—

(1) promulgate a plan which meets the requirements of section 214 and which applies to the residential buildings which would have been covered had such a plan been so approved or implemented, and

(2) under such plan, by order, require the nonregulated utility to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except in the case of a nonregulated utility for which such requirements are inapplicable by reason of section 216(f)).

(c) FAILURE TO COMPLY WITH ORDERS.—If the Secretary determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or (b) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2)(A) Notwithstanding section 402(d) of the Department of Energy Organization Act, a civil penalty under this subsection shall be assessed by an order of the Secretary.

(B) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after receipt of such notice to have the procedures of paragraph (4) (in lieu of those of paragraph (3)) apply with respect to such assessment.

(3)(A) Unless an election in writing is made within 30 calendar days after receipt of notice under paragraph (2) to have paragraph (4) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom such penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(4)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall assess such penalty, by order, not later than 60 calendar days after the date of receipt of notice under paragraph (2) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (3), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (4), the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final order or judgment imposing the civil penalty shall not be subject to review.

(6)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502 of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which this subsection applies (including any related collection action) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

SEC. 220. RELATIONSHIP TO OTHER LAWS.

(a) State and Local Law in General.—Nothing in this Part shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Secretary, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this Part or that such law or regulation requires or permits any public utility to take any action prohibited under this Part.

(b) Laws Relating to Unfair Competition and Deceptive Acts.—Nothing in this Part shall be construed as restricting the authority of any agency or instrumentality of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices.

(c) Truth in Lending.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this Part.

(d) Manufacturer's Warranties.—With respect to the last sentence of section 210(11) respecting warranties offered by a manufacturer, all Federal and State laws otherwise applicable to such warranties offered by a manufacturer shall apply, except to the extent inconsistent with such last sentence.

SEC. 221. RULES.

The Secretary is authorized to promulgate such rules as he determines may be necessary to carry out this Part.

SEC. 222. PRODUCT STANDARDS.

The Secretary shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this Part as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated $5,000,000 to the Secretary for each of the first three fiscal years 1979, 1980, and 1981, to carry out his responsibilities under this Part.

SEC. 224. REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS.

(a) Report.—The Secretary shall, within six months after the date of enactment of this Act, prepare a report on the potential for energy conservation in apartment buildings.

(b) Consideration Required.—The report required under this section shall include a consideration of:

(1) structural and energy control measures which may result in energy conservation in apartment buildings;

(2) potential for energy conservation in apartment buildings which could be achieved by the application of a utility program (such as provided in this part) to apartment buildings;

(3) the costs of achieving energy conservation in apartment buildings, and the need for Federal financial assistance to achieve energy savings; and,

(4) recommendations for appropriate legislation.

(c) Definition.—For purposes of this section, the term "apartment building" means a building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which contains more than four dwelling units.

SEC. 225. FEDERAL TRADE COMMISSION STUDY AND REPORT.

(a) Study.—(1) Before January 1, 1982, the Federal Trade Commission shall complete a study and submit a report to Congress and the President on the activities of public utilities and home heating suppliers under this part.

(2) The study shall include a review of the making, or arranging, of loans and the installation, or arranging for installation, of any residential energy conservation measure by public utilities and home heating suppliers.

(3) Such study may contain legislative recommendations respecting lending and installation activities for any residential energy conservation measure by public utilities and home heating suppliers and may contain recommendations concerning whether public utilities or home heating suppliers should be permitted by State or Federal law to continue to carry out such activities.

(b) Considerations Required.—In conducting the study under this part, the Commission shall consider the effect of public utility and home heating supplier activities under this part on—

(1) competition among utilities, home heating suppliers, contractors, and lenders in a utility's service area;

(2) the availability of supplies of each residential energy conservation measure and the price of purchasing and installing each such measure;

(3) the increase in the number of residential buildings in which are installed, or likely to be installed any such measure; and

(4) any other factors the Commission deems appropriate.

PART 2—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

SEC. 231. DEPARTMENT OF ENERGY WEATHERIZATION GRANT PROGRAM.

(a) Eligibility.—(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting after "Budget," the following: "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964,".

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b) Standards and Materials.—(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the

Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

(2) Section 412(9) of such Act is amended to read as follows:

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to substantially increase the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, by rule, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) LIMITATIONS ON EXPENDITURES.—Section 415 of such Act is amended—

(1) by striking out "Weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not more than 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.".

(d) FUNDING.—Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 232. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Secretary of Energy for the purpose of coordinating the weatherization program under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that, with respect to any dwelling unit, not more than $800 of any grant made under this section be expended on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to not more than $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973 or the Older American Community Service Employment Act, available to work on weatherization projects under the supervision of qualified supervisors.

"(4) For purposes of this subsection, the terms 'elderly,' 'handicapped person,' 'low income,' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) FUNDING.—Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of any amount authorized to be appropriated for the fiscal year ending September 30, 1979, is authorized to be appropriated for making grants pursuant to section 504(c)".

SEC. 233. AVAILABILITY OF LABOR.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment Training Act of 1973 and the Older American Community Service Employment Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949:

(1) First, the Secretary of Energy (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

PART 3—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS

SEC. 241. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

Subparagraphs (2) and (3) of the last paragraph of section 2(a) of the National Housing Act are amended to read as follows:

"(2) the term 'energy conserving improvements' means the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.".

SEC. 242. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

"SEC. 314. (a) As soon as practicable after the date of enactment of this section, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Agriculture and the Secretary of Energy and after taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation) establishes, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next proceeding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs;

"(3) the amount of such loan or advance of credit does not exceed $2,500;

"(4) such loan or advance of credit is not used for the refinancing of any extension of credit; and

"(5) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 100 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 100 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, usually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

SEC. 243. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available on a national basis to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act (to an extent which the Secretary determines is necessary to advance the achievement of the national program of energy conservation in residential dwelling units, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever the Secretary determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and made to owners of one- to four-family dwelling units or insured under section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of such Act) in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amounts exceed $2,000,000,000 at any one time.

"(g) A loan or advance of credit may be purchased under this section only if—

"(1) such loan or advance of credit is not used for the refinancing of an extension of credit; and

"(2) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.".

SEC. 244. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS FOR SOLAR ENERGY SYSTEMS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF LOANS FOR SOLAR ENERGY SYSTEMS

"SEC. 316. (a) The Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are made to owners of a one- to four-family dwelling units and insured under title I of the National Housing Act and which are made for the purpose of purchasing and installing solar energy systems (as defined in subparagraph (3) of the last paragraph of section 2(a) of such Act) in such dwelling units. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed fifteen years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) subject to subsection (i), such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Energy) establishes and which is not less than the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next preceding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs and not more than the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act;

"(3) the amount of such loan or advance of credit does not exceed $8,000;

"(4) the security for such loan or advance of credit is acceptable to the Secretary;

"(5) such loan or advance of credit is not used for the refinancing of any other extension of credit; and

"(6) the solar energy system financed by such loan or advance of credit is purchased and installed after the date of enactment of this section.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amount exceed $100,000,000 at any one time.

"(g) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(h) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(i) If, after one year following the date on which the Association may issure obligations under subsection (c), 50 per centum of the amount available during such one-year period for financing the program established by this section has not been utilized, the Secretary shall provide that loans and advances of credit which may be purchased under this section shall have the lowest interest rate authorized by subsection (b)(2) unless the Secretary finds that the interest rate is not the primary impediment to carrying out such program and that lowering the interest rate will not increase the utilization of the funds made available to carry out such program.

"(j) The authority to purchase loans and advances of credit under this section shall terminate five years after the date of enactment of this section.".

SEC. 245. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding the following new sentence at the end thereof: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' also includes a loan or advance of credit for such purposes not having the benefit of such insurance and includes loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security.".

SEC. 246. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.".

SEC. 247. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF THE NATIONAL HOUSING ACT.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act), and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.".

SEC. 248. INCREASE IN MORTGAGE LIMITS TO COVER COSTS OF SOLAR ENERGY SYSTEMS.

(a) One- to Four-Family Housing.—Section 203(b)(2) of the National Housing Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(b) Multifamily Housing.—Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

(c) Farmers Home Administration Authority.—Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this title for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

PART 4—MISCELLANEOUS

SEC. 251. ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

(a) Public Housing.—Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

(b) Grants.—(1) The Secretary of Housing and Urban Development is authorized to make grants to finance energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection on a priority basis to those projects which are in financial difficulty as a result of high energy costs. In carrying out the program authorized by this subsection, the Secretary shall issue regulations requiring that any grant made under this subsection shall be made only on the condition that the recipient of such grant shall take steps (prescribed by the Secretary) to assure that the benefits derived from such grants in terms of lower energy costs shall accure to tenants in the form of lower rentals or to the Federal Government in the form of a lower operating subsidy if such a subsidy is being paid to such recipient.

(2) The Secretary shall establish minimum standards for energy conserving improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $25,000,000.

SEC. 252. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) Federal Housing Administration Standards.—Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of this sentence.".

(b) Farmers Home Administration Standards.—Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"Sec. 529. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by such Secretary for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.".

SEC. 253. RESIDENTIAL ENERGY EFFICIENCY STANDARDS STUDY.

(a) General Authority.—The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Secretary of Energy, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study, utilizing the services of the National Institute of Building Sciences pursuant to appropriate contractual arrangements, for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards.

(b) Specific Factors.—In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser from the uncertainty of not knowing the energy efficiency of the property he proposes to purchase;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the sanctions which might be necessary to make such a requirement effective and the administrative impediments there might be to enforcement of such sanctions;

(5) the possible impact on sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Federal Government in imposing mandatory requirements concerning the purchase and sale of real property as occurred under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973;

(6) an analysis of the effect of such a requirement on the economy as a whole and on the Nation's security as compared to the impact on the credit and housing markets caused by such a requirement;

(7) the effect of such a requirement on availability of credit in the housing industry;

(8) the extent to which the imposition of mandatory Federal requirements would temporarily reduce the number of residential dwellings available for sale and the resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale; and

(9) the possible uncertainty, during the period of developing the standards, as to what standards might be imposed and any resulting effect on major housing rehabilitation efforts and voluntary efforts for energy conservation.

(c) Comments and Findings by Secretary of Energy.—The Secretary shall incorporate into such study comments by the Secretary of Energy on the effects on the economy as a whole and on the Nation's security which may result from the requirement described in subsection (a) as compared to the impact on the credit and housing markets likely to be caused by such a requirement. In addition, the Secretary shall incorporate into such study the following findings by the Secretary of Energy:

(1) the savings in energy costs resulting from the requirement described in subsection (a) throughout the estimated remaining useful life of the existing residential buildings to which such requirement would apply; and

(2) the total cost per barrel of oil equivalent, in obtaining the energy savings likely to result from such requirement, computed for each class of existing residential buildings to which such requirement would apply.

(d) Report Date.—The Secretary shall report, no later than one year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 254. WEATHERIZATION STUDY.

The President shall conduct a study which shall monitor the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken, independently of this Act and such amendments. The President shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

SEC. 255. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated, for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) for the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) for the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

PART 1—SCHOOLS AND HOSPITALS

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

SEC. 302. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT TO TITLE III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"DEFINITIONS

"SEC. 391. For the purposes of this part—

"(1) The term 'building' means any structure the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

"(A) insulation of the building structure and systems within the building;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary);

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

"(L) such other measures as the Secretary identifies by rule for purposes of this part; and

"(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 365(e)(2).

"(3) The term 'hospital' means a public or nonprofit institution which is—

"(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

"(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

"(4) The term 'hospital facilities' means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

"(6) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

"(D) is a local educational agency.

"(7) The term 'local education agency' means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"(8) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(9) The term 'State' means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(10) The term 'State energy agency' means the State agency responsible for developing State energy conservation plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 394 of this part.

(11) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(12) The term 'State hospital facilities agency' means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(13) The term 'energy audit' means a determination of the energy consumption characteristics of a building which—

"(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

"(14) The term 'preliminary energy audit' means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

"(15) The term 'energy conservation project' means—

"(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

"(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

"(16) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures and technical assistance costs.

"(17) The term 'technical assistance' means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

"(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(18) The term 'technical assistance costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

"(19) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"(20) The term 'Secretary' means the Secretary of Energy or his designee.

"(21) The term 'Governor' means the chief executive officer of a State or his designee.

"GUIDELINES

"SEC. 392. (a) The Secretary shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of enactment of this part, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

"(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

"(d) The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

"SEC. 393. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 392(a) for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

"(b) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(1). If a State does not conduct preliminary energy audits within two years after the date of the enactment of this part, the Secretary may conduct such audits within such State.

"(c) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(2).

"(d) If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

"(e)(1) Except as provided in paragraph (2), amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 398(a)(3).

"STATE PLANS

"SEC. 394. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 392, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include—

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 392(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State,

"(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated.

"(3) a program for identifying persons qualified to carry out energy conservation projects,

"(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

"(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

"(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

"(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate,

"(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements of an approved State plan for such State, and in compliance with the requirements of this part:

"(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

"(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

"(b) The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"(c)(1) If a State plan has not been approved under this section within 2 years and 90 days after the enactment of this part, or within 90 days after the completion of the preliminary audits under section 393(a), whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency, in order that the energy conservation program for schools and hospitals may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

"APPLICATIONS FOR FINANCIAL ASSISTANCE

"SEC. 395. (a) Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

"(b) Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

"(c)(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

"(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

"(A) related State programs for educational facilities in such State, and

"(B) State health plans under section 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

"(d) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 394. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

"(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

"GRANTS FOR PROJECT COSTS AND TECHNICAL ASSISTANCE

"SEC. 396. (a) The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 395.

"(b)(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project.

"(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 392(d). Grants made under this paragraph shall be from the funds provided under section 398(a)(2).

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 398.

"(d) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

"(e) No grant made under this part to a school which is a local educational agency may be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits pursuant to section 393, there is authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making energy conservation project grants pursuant to section 396, there is authorized to be appropriated not to exceed $180,000,000 for the fiscal year ending September 30, 1978, $295,000,000 for fiscal year ending September 30, 1979, and $400,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended. Of the amounts appropriated under this subsection for each of the following fiscal years not more than the following percentage may be used for purposes of technical assistance:

Fiscal year ending:	*Percentage*
September 30, 1978	30
September 30, 1979	15
September 30, 1980	5

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ALLOCATION OF GRANTS

"SEC. 398. (a)(1) Except as otherwise provided in subsection (b), the Secretary shall allocate 90 percent of the amounts made available under section 397(b) in any year for purposes of making energy conservation project grants pursuant to section 396 as follows:

"(A) Eighty percent of amounts made available under section 397(b) shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

"(B) Ten percent of amounts made available under section 397(b) shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

"(2) The Secretary shall allocate 10 percent of the amounts made available under section 397(b) in any year for purposes of making grants as provided under section 396(b)(2) in excess of the 50 percent limitation contained in section 396(b)(1).

"(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 393(e)(2), the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

"(c) Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"(e) Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 399. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

"RECORDS

"SEC. 400. (a) Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"Sec. 391. Definitions.
"Sec. 392. Guidelines.
"Sec. 393. Preliminary energy audits and energy audits.
"Sec. 394. State plans.
"Sec. 395. Applications for financial assistance.
"Sec. 396. Grants for project costs and technical assistance.
"Sec. 397. Authorization of appropriations.
"Sec. 398. Allocation of grants.
"Sec. 399. Administration; annual reports.
"Sec. 400. Records.".

(c) Severability.—If any provision of this title or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.

SEC. 303. TECHNICAL AMENDMENTS.

(a) Section 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

(b) Section 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) Section 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

SEC. 304. CROSS REFERENCE.

For provisions relating to application of Davis-Bacon Act to this part, see section 312.

PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

SEC. 310. STATEMENT OF FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

(b) Purpose.—It is the purpose of this part to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

SEC. 311. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) Amendment to Title III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"DEFINITIONS

"SEC. 400A. For purposes of this part—

"(1) The terms 'hospital', 'State', 'school', 'Governor', 'State energy agency', 'energy conservation measure', 'energy conservation maintenance and operating procedure', 'preliminary energy audit', 'technical assistance costs', 'energy audit' and 'Secretary' have the meanings provided in section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 412 of the Energy Conservation and Production Act) which governing body performs substantial governmental functions.

"(3) The term 'building' has the meaning provided in section 391 except that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

"(4) The term 'public care institution' means a public or nonprofit institution which owns—

"(A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 1633 of the Public Health Service Act, or

"(B) a residential child care center.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"(6) The term 'technical assistance program costs' means the costs of carrying out a technical assistance program.

"(7) The term 'technical assistance' means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or

"(B) the planning or administration of such specialized studies.

"GUIDELINES AND RULES

"SEC. 400B. (a) The Secretary shall, by rule, not later than sixty days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government and public care institutions, including a description of the type, number and distribution of preliminary energy audits of such buildings that will provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of the enactment of this part, prescribe guidelines for State plans for the implementation of technical assistance programs for buildings owned by units of local government and public care institutions. The guidelines shall include—

"(1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals;

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to undertake technical assistance work; and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this part may be revised from time to time after notice and opportunity for comment.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

"SEC. 400C. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct preliminary energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(b) Upon application under subsection (a), the Secretary may make grants to States to assist in conducting preliminary energy audits under this part for buildings owned by units of local government and public care institutions. Such audits shall be conducted in accordance with the guidelines prescribed under section 400B(a)(1).

"(c) The Governor of any State, unit of local government or public care institution may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(d) Upon application under subsection (c) the Secretary may make grants to States, units of local government, and public care institutions for purposes of conducting energy audits of facilities under this part in accordance with the guidelines prescribed under section 400B(a)(2).

"(e) If a State, unit of local government, or public care institution, without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary, the funds allocated for purposes of this section shall be added to the funds available for technical assistance programs for such State, and shall be in addition to amounts otherwise available for such purpose.

"(f) Amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or energy audit.

"STATE PLANS

"SEC. 400D. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 400B, or such longer period as the Secretary may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed pursuant to section 400B(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in buildings owned by units of local government and public care institutions,

"(2) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government and public care institutions in such State, together with an estimate of the costs of carrying out such programs;

"(3) a program for identifying persons qualified to carry out technical assistance programs,

"(4) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other State energy conservation programs,

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible applicants for technical assistance within such State, including procedures to insure that funds will be allocated among eligible applicants on the basis of relative need and including recommendations as to how priorities should be established between buildings owned by units of local government and public care institutions, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings;

"(6) procedures to assure that all grants for technical assistance provided under this part are expended in compliance with the requirements of an approved State plan for such State and in compliance with the requirements of this part (including requirements contained in rules promulgated under this part); and

"(7) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant State, local, or other funds.

"(b) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Secretary not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90 day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"APPLICATIONS FOR GRANTS FOR TECHNICAL ASSISTANCE

"SEC. 400E. (a) Applications of units of local government and public care institutions for grants for technical assistance under this part shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with the State plan.

"(b) Applications for grants for technical assistance under this part shall contain or be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of technical assistance proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expenditures as the Secretary may, by rule, require.

"(c) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and the requirements of the applicable State plan approved under section 400D. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide be subject to approval in the same manner as the original application. All or any portions of an application under this section may be disapproved to the extent that funds are not available under this part.

"(d) Whenever the Secretary after reasonable notice and opportunity for hearing to any unit of local government or public care institution receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the unit of local government or public care institution that further assistance will not be made available to such unit of local government or public care institution under this part until he is satisfied that there is no longer any failure to comply. Until he is so satisfied, no further assistance shall be made to such unit of local government or public care institution under this part.

"GRANTS FOR TECHNICAL ASSISTANCE

"SEC. 400F. (a) The Secretary may make grants to States and to units of local government and public care institutions in payment of technical assistance program costs for buildings owned by units of local government and public care institutions the applications for which have been approved under section 400E.

"(b) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of technical assistance program costs.

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 400H.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 400G. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits under this part there is authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making technical assistance grants under this part to States and to units of local government and public care institutions, there is hereby authorized to be appropriated not to exceed $17,500,000 for the fiscal year ending September 30, 1978, and $32,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ALLOCATION OF GRANTS

"SEC. 400H. (a) Grants made under this part shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants in each State which has an approved State plan under this part.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 400I. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out, with funds allocated, and an estimate of the energy savings, if any, achieved.

"RECORDS

"SEC. 400J. Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.".

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"Sec. 400A. Definitions.
"Sec. 400B. Guidelines and rules.
"Sec. 400C. Preliminary energy audits and energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Applications for grants for technical assistance.
"Sec. 400F. Grants for technical assistance.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Allocation of grants.
"Sec. 400I. Administration; annual reports.
"Sec. 400J. Records.".

SEC 312. APPLICATION OF DAVIS-BACON ACT.

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is $5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 31, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES

PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES

SEC. 401. FUEL ECONOMY INFORMATION.

(a) AMENDMENT TO SECTION 506.—(1) Section 506(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(c)) is amended by adding at the end thereof the following:

"(3) As used in this section, the term 'automobile' includes any automobile with a gross vehicle weight rating of 8,500 pounds or less, notwithstanding any lack of determination required of the Secretary under section 501(1)(B)(ii) or (iii).".

(2) Section 506(c)(2) of such Act (15 U.S.C. 2006(c)(2)) is amended by inserting before the period the following: "(taking into account paragraph (3) of this subsection)".

(b) RULE OF CONSTRUCTION.—The amendment made by this section shall not be construed to affect the authority in section 506 of the Motor Vehicle Information and Cost Savings Act to require labels or other information for fuel economy for automobiles rated in excess of 8,500 pounds gross vehicle weight.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for automobiles manufactured in model years after model year 1979.

SEC. 402. CIVIL PENALTIES RELATING TO AUTOMOBILE FUEL EFFICIENCY.

Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended by adding at the end thereof the following new subsections:

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount per tenth of a mile per gallon which would be used to calculate the civil penalty under subsection (b)(1) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the civil penalty which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher penalty may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of civil penalty will not result in substantial deleterious impacts on the economy of the United States or of any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of civil penalty will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the civil penalty under subsection (b)(1) be less than $5.00 or more than $10.00.

"(3) Any rule prescribed under paragraph (1) shall be effective for the later of—

"(A) automobile model years beginning after model year 1981, or

"(B) automobile model years beginning at least 18 months after such rule becomes final.

"(4) Any rule prescribed under paragraph (1) shall provide that the amount per tenth of a mile per gallon used to calculate a credit under subsection (a)(3) for any model year shall equal the amount per tenth of a mile per gallon applicable to the calculation of the civil penalty for which the credit is allowed.

"(e)(1)(A) After the Secretary of Transportation develops a proposed rule pursuant to subsection (d), he shall publish such proposed rule in the Federal Register, together with a statement of the basis for such rule, and provide copies thereof to the manufacturers. He shall then provide a period of public comment on such rule of at least 45 days for written comments thereon. A copy of any such proposed rule shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public concerning such proposed rule.

"(B) After such written comment period, any interested person, (including the Federal Trade Commission) shall be afforded an opportunity to present oral data, views, and arguments at a public hearing concerning such proposal. At such hearing such interested person (including the Federal Trade Commission) shall have an opportunity to question—

"(i) other interested persons who make oral presentations,

"(ii) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or in the consideration thereof, and

"(iii) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation;

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(C) A rule subject to this subsection may not be issued except on consideration of the whole record supported by, and in accordance with, the reliable, probative, and substantial evidence.

"(D) A transcript shall be kept of any such public hearing made in accordance with this section and such transcripts and written comments shall be available to the public at the cost of reproduction.

"(2) If any final rule is prescribed by the Secretary after such public comment period under subsection (d) it shall be published in the Federal Register, together with each of the findings required by subsection (d).

"(3)(A) Any person aggrieved by any final rule under subsection (d) may at any time before the 60th day after the date such rule is published under paragraph (2) file a petition with the United States Court of Appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(B) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule may be affirmed unless supported by substantial evidence.

"(C) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) In the case of any information which is provided the Secretary or the court during the consideration and review of any such rule and which is determined to be confidential by the Secretary pursuant to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, any disclosure of such information by an officer or employee of the United States or of any department or agency thereof, except in an in camera proceeding by the Secretary or the court, shall be deemed a violation of section 1905 of title 18, United States Code."

SEC. 403. DISCLOSURE IN LABELING.

(a) Disclosure.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax, and".

(b) TIME AND MANNER OF DISCLOSURE.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall not take effect unless and until there is in effect a Federal tax imposed with respect to automobile fuel efficiency which is enacted during the Ninety-fifth Congress.

SEC. 404. STUDY.

Within six months after the date of the enactment of this Act, the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation and after an opportunity for public comment, shall submit to the Congress a detailed report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) provide a realistic estimate of average fuel economy likely to be achieved by the driving public. Such report shall include such recommendations as the Environmental Protection Agency deems appropriate based on report and written findings or conclusions stated therein, other than recommendations concerning changes or alterations in the testing and calculation procedures and methods measuring fuel economy under such Act as utilized by the Environmental Protection Agency for model year 1975 passenger automobiles. Nothing in this section shall authorize such agency to make any changes or alterations in such procedures and methods in effect for such model year for measuring automobile fuel economy.

PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

SEC. 421. TEST PROCEDURES.

(a) PRESCRIPTION OF TEST PROCEDURES.—Section 323(a)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than January 31, 1978."; and

(3) by striking out subparagraph (B).

(b) EXTENSIONS.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

"(6)(A) The Secretary may delay the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (4).

"(B) The Secretary is not required to publish and prescribe test procedures under paragraphs (3) and (4) for a type of covered product (or class thereof) if he determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor. For purposes of section 327, a determination under this subparagraph with respect to any type (or class) of covered product, while effective, shall have the same effect as would a standard prescribed for such type (or class) under section 325.".

(c) REEVALUATIONS OF TEST PROCEDURES, ETC.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7)(A) In the case of—

"(i) any test procedure prescribed under this subsection; or

"(ii) any determination under paragraph (6) that a test procedure cannot be developed which meets the requirements of subsection (b);

the Secretary shall, not later than 3 years after the date of the enactment of this paragraph (and from time to time thereafter), conduct a reevaluation and, on the basis of such reevaluation, shall determine if such test procedure should be amended or such determination should be rescinded. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered products involved.

"(B) If the Secretary determines under subparagraph (A) that—

"(i) a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments, or

"(ii) a determination under paragraph (6) should be rescinded, he shall promptly publish notice thereof in the Federal Register,

and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

(d) ENERGY EFFICIENCY REPRESENTATIONS.—Section 323(c) of such Act (42 U.S.C. 6293(c)) is amended—

(1) by striking out "90 days" and inserting in lieu thereof "180 days";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "(c)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Commission with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Commission).".

SEC. 422. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1) The Secretary shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).

"(2) The Secretary may, by rule, prescribe an energy efficiency standard for any type (or class) of covered products of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-calendar-month period ending before such determination;

"(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-calendar-month period;

"(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible to attain and is economically justified.

Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under this paragraph. The Secretary may revise such list from time to time thereafter.

"(b) No standard for a type (or class) of covered products shall be prescribed pursuant to subsection (a) if—

"(1) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of products, or

"(2) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 327, a determination under paragraph (2) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class) under this section.

"(c) Energy efficiency standards for each type (or class) of covered products prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 5 years, through the establishment of intermediate standards, as determined by the Secretary.

"(d) Before determining whether a standard is economically justified under subsection (c), the Secretary, after receiving any views and comments furnished with respect to the proposed standard under section 336, shall determine that the benefits of the standard exceed its burdens based, to the greatest extent practicable, on a weighing of the following factors:

"(1) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(2) the savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard,

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard,

"(4) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

"(5) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard,

"(6) the need of the Nation to conserve energy, and

"(7) any other factors the Secretary considers relevant.

For purposes of paragraph (5), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

"(e)(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any rule prescribing an energy efficiency standard under this section for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Secretary finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition.

"(f)(1) A rule prescribing an energy efficiency standard for a type (or class) of covered products shall specify a level of energy efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary, in his discretion, determines that covered products within such group—

"(A) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(B) have a capacity or other performance-related feature which other products within such type (or class) do not have,

justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this paragraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as he deems appropriate.

"(2) Any rule prescribing a higher or lower level of energy efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

"(g) In prescribing energy efficiency standards under this section, the Secretary shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a).

"(h)(1) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter), the Secretary shall—

"(A) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(B) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered products involved, and the economic impact of the standard.

"(2) If the Secretary determines under paragraph (1) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(i) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule is likely to apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Secretary—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered products (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (8), (10), and (11), of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered products has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Secretary shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Secretary shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Secretary shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (d)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescribe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered products the manufacturer of which was completed before the effective date of the rule or amendment as the case may be.

"(j) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 423. ASSESSMENT OF CIVIL PENALTIES.

Section 333 of the Energy Policy and Conservation Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"(5)(A) Notwithstanding the provisions of title 28, United States Code, or section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

"(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

"(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection.

"(6) For purposes of applying the preceding provisions of this subsection in the case of the assessment of a penalty by the Commission for a violation of paragraphs (1) and (2) of section 332, references in such provisions to 'Secretary' and 'Department of Energy' shall be considered to be references to the 'Commission'."

SEC. 424. EFFECT OF STANDARDS ON OTHER LAWS.

(a) Interim Preemption.—Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2) or (b)(2), then any person subject to such regulation may file a petition with the Secretary requesting that the Secretary prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Secretary, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Secretary finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after January 1, 1978, which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Secretary requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulations; except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or other requirement respecting energy use or energy efficiency for any type (or class) of covered products for which a Federal energy efficiency standard is applicable may file a petition with the Secretary requesting a rule that such regulation not be superseded. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(4) The Secretary shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Secretary, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of paragraph (2) shall not continue in effect after July 1, 1980, in the case of any type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).".

(b) Preemption of Certain State Regulations.—Paragraph (2) of section 327(a) of such Act (42 U.S.C. 6297(a)) is amended by striking out "similar requirement" and inserting in lieu thereof "other requirement".

SEC. 425. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Amendment to Section 323(a).—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence thereof.

(b) Amendments to Section 324(a).—Section 324(a) of such Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(c) Amendments to Section 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(d) Amendments to Section 326.—(1) Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out this part, the Secretary may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Secretary with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.".

(2) Section 326(b)(1) of such Act (42 U.S.C. 6296(b)(1)) is amended to read as follows:

"(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Secretary or the Commission—

"(A) not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies; and

"(B) prior to commencement of production, of all models subsequently produced (and starting serial numbers of those models) to which such rule applies.".

(3) Paragraph (3) of section 326(b) of such Act (42 U.S.C. 6296 (b)(3)) is amended to read as follows:

"(3) When requested—

"(A) by the Secretary for purposes of ascertaining whether a product subject to a standard prescribed under section 325 is in compliance with that standard, or

"(B) by the Commission for purposes of ascertaining whether the information set out on a label of a product, as required under section 324, is accurate,

each manufacturer of such a product shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Secretary or the Commission, as the case may be. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States, if and to the extent provided in appropriation Acts."

(e) Amendments to Section 333.—(1) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(2) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended—

(A) by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof ", except to the extent that such violation is prohibited under the provisions of section 332(a)(1), in which case such provisions shall apply.".

(f) Amendments to Section 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(1) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(2) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(g) Amendments to Section 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended—

(A) by redesignating subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (B) as paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (2), respectively;

(B) in paragraph (2)(B), as redesignated under subparagraph (A), by striking out "subparagraph (A)" and inserting "paragraph (1)" in lieu thereof; and

(C) in the last sentence thereof, by striking out "paragraph" and inserting "subsection" in lieu thereof.

(4) Sections 336(b) (1) and (2) of such Act (42 U.S.C. 6306(b) (1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(h) Amendment to Section 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Secretary in carrying out this part during the period covered by such report, and those actions which the Secretary was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 426. APPROPRIATIONS AUTHORIZATION.

(a) Section 339(a) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out “and” at the end of paragraph (2); and

(2) by striking out paragraph (3) and by inserting in lieu thereof the following:

“(3) $3,300,000 for fiscal year 1978; and

“(4) $10,000,000 for fiscal year 1979.

Amounts authorized for such purposes under paragraph (3) shall be in addition to amounts otherwise authorized and appropriated for such purposes.”.

(b) Section 339(b) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out “and” at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof the following “; and”; and

(3) by adding at the end thereof the following:

“(3) $2,000,000 for fiscal year 1979.”.

SEC. 427. EFFECTS OF OTHER LAWS ON PROCEDURES.

Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended by adding at the end thereof the following:

“(c)(1) Titles IV and V of the Department of Energy Organization Act (42 U.S.C. 7191 et seq.) shall not apply with respect to the procedures under this part.

“(2) The procedures applicable under this part shall not—

“(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein), or

“(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part, and declaring that such provision supersedes, in whole or in part, the procedures of this part.”.

PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

SEC. 441. ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT.

(a) In General.—Title III of the Energy Policy and Conservation Act, relating to improving energy efficiency, is amended by redesignating parts C, D, and E as parts D, E, and F, respectively, and by inserting after part B the following new part:

“Part C—Certain Industrial Equipment

“DEFINITIONS

“Sec. 340. For purposes of this part—

“(1) The term ‘covered equipment’ means one of the following types of industrial equipment:

“(A) Electric motors and pumps.

“(B) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).

“(2)(A) The term ‘industrial equipment’ means any article of equipment referred to in subparagraph (B) of a type—

“(i) which in operation consumes, or is designed to consume, energy;

"(ii) which, to any significant extent, is distributed in commerce for industrial or commercial use; and

"(iii) which is not a 'covered product' as defined in section 321(a)(2), other than a component of a covered product with respect to which there is in effect a determination under section 341(c);

without regard to whether such article is in fact distributed in commerce for industrial or commercial use.

"(B) The types of equipment referred to in this subparagraph (in addition to electric motors and pumps) are as follows:

"(i) compressors;
"(ii) fans;
"(iii) blowers;
"(iv) refrigeration equipment;
"(v) air conditioning equipment;
"(vi) electric lights;
"(vii) electrolytic equipment;
"(viii) electric arc equipment;
"(ix) steam boilers;
"(x) ovens;
"(xi) furnaces;
"(xii) kilns;
"(xiii) evaporators; and
"(xiv) dryers.

"(3) the term 'energy efficiency' means the ratio of the useful output of services from an article of industrial equipment to the energy use by such article, determined in accordance with test procedures under section 343.

"(4) The term 'energy use' means the quantity of energy directly consumed by an article of industrial equipment at the point of use, determined in accordance with test procedures established under section 343.

"(5) The term 'manufacturer' means any person who manufactures industrial equipment.

"(6) The term 'label' may include any printed matter determined appropriate by the Secretary.

"(7) The terms 'energy', 'manufacture', 'import', 'importation', 'consumer product', 'distribute in commerce', 'distribution in commerce', and 'commerce' have the same meaning as is given such terms in section 321.

"PURPOSES AND COVERAGE

"SEC. 341. (a) It is the purpose of this part to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation.

"(b) The Secretary may, by rule, include a type of industrial equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of this part.

"(c) The Secretary may, by rule, include as industrial equipment articles which are component parts of consumer products, if he determines that—

"(1) such articles are, to a significant extent, distributed in commerce other than as component parts for consumer products; and

"(2) such articles meet the requirements of section 340(2)(A) (other than clauses (ii) and (iii)).

"STUDY OF ELECTRIC MOTORS AND PUMPS AND OTHER INDUSTRIAL EQUIPMENT

"SEC. 342. (a) Not later than 18 months after the date of the enactment of this section, the Secretary shall—

"(1) evaluate electric motors and pumps to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purpose of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes of electric motors and pumps determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency; and

"(2) submit a report to the Congress on the results of such evaluation, together with such recommendations for legislation as he considers appropriate.

"(b)(1) The Secretary may conduct an evaluation of any type of industrial equipment (other than electric motors or pumps) to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purposes of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency.

"(2) After the completion of an evaluation under paragraph (1), the Secretary shall submit to the Congress a report on such evaluation, together with such recommendations for legislation as he considers appropriate.

"(c)(1) In conducting an evaluation under subsection (a) or (b), the Secretary shall, with respect to equipment covered by the evaluation—

"(A) identify significant factors that determine energy efficiency, including hours of operation per year and average power consumption at normal use and at full capacity;

"(B) estimate current and future equipment population profiles;

"(C) estimate the potential for improvements in energy efficiency that in the Secretary's judgment are both technologically feasible and economically justified;

"(D) estimate likely increases or decreases in energy efficiency and total energy savings likely to result from implementation of—

"(i) labeling rules, and

"(ii) energy efficiency standards; and

"(E) examine such other factors as the Secretary determines appropriate.

"(2) Before submitting a report to the Congress under subsection (a) or (b), the Secretary shall—

"(A) make available to interested persons copies of the proposed report, publish in the Federal Register notice of availability of such report, and afford interested persons an opportunity (of not less than 60 days' duration) to present written comments; and

"(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

"(3) Any standard classification of industrial equipment established under subsection (a) or (b) shall—

"(A) define the equipment contained therein; and

"(B) characterize the equipment and its general use.

"TEST PROCEDURES

"SEC. 343. (a)(1) If the Secretary has conducted an evaluation of a class of covered equipment under section 342, he may prescribe test procedures for such class in accordance with the following provisions of this section.

"(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

"(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

"(b) Before prescribing any final test procedures under this section, the Secretary shall—

"(1) publish proposed test procedures in the Federal Register; and

"(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

"(d)(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

"(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

"(d)(1) Effective 180 days after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

"(e) The Secretary may direct the National Bureau of Standards to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

"LABELING REQUIREMENTS

"SEC. 344. (a) If the Secretary has prescribed test procedures under section 343 for any class of covered equipment, he may prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section.

"(b) A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 343. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 343.

"(c) A rule prescribed in accordance with this section may include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

"(1) requirements and directions for display of any label,

"(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

"(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

"(d) Before prescribing any labeling rules for a type (or class) of covered equipment, the Secretary shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Secretary.

"(e)(1) Before prescribing any labeling rules under this section, the Secretary shall—

"(A) publish proposed labeling rules in the Federal Register, and

"(B) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed rules.

"(2) A labeling rule prescribed under this section shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Secretary determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

"(f) The Secretary shall not promulgate labeling rules for any class of industrial equipment unless he has determined that—

"(1) labeling in accordance with this section is technologically and economically feasible with respect to such class;

"(2) significant energy savings will likely result from such labeling; and

"(3) labeling in accordance with this section is likely to assist consumers in making purchasing decisions.

"(g) When requested by the Secretary, any manufacturer of industrial equipment to which a rule under this section applies shall supply at the manufacturer's expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Secretary, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States, if and to the extent provided in appropriations Acts.

"(h) A labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

"(i) Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type (or class) of covered equipment.

"ADMINISTRATION, PENALTIES, AND ENFORCEMENT

"SEC. 345. (a) The provisions of section 326 (a), (b), and (d) and sections 328 through 336 shall apply with respect to this part to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of this part—

"(1) references to sections 323 and 324 shall be considered as references to sections 343 and 344, respectively;

"(2) references to 'this part' shall be treated as referring to part C;

"(3) the term 'equipment' shall be substituted for the term 'product'; and

"(4) the term 'Secretary' shall be substituted for 'Commission' each place it appears (other than in section 333(c)).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 346. (a) There are hereby authorized to be appropriated to carry out the purposes of this subpart—

"(1) $2,000,000 for fiscal year 1978; and

"(2) $3,000,000 for fiscal year 1979.".

(b) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by striking out "PART C", "PART D", and "PART E" in the items relating to parts C, D, and E of title III of such Act and inserting in lieu thereof "PART D", "PART E", and "PART F", respectively, and

(2) by inserting after the item relating to section 339 the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"Sec. 340. Definitions.
"Sec. 341. Purpose and coverage.
"Sec. 342. Study of electric motors and pumps and other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements.
"Sec. 345. Administration, penalties, and enforcement.
"Sec. 346. Authorization of appropriations.".

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

SEC. 461. USE OF RECOVERED MATERIALS.

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this subtitle are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part E of title III of the Energy Policy and Conservation Act, as redesignated by section 441(b)(2) of this Act, is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of the enactment of this section, the Secretary shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: the metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Secretary shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Secretary—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

"(e) Within each of the industries subject to this section, the Secretary shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1979, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Secretary under section 375, or if section 376(g) applies, prepare and transmit a report which includes, a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1980, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Secretary for its industry. Such reports shall contain such information as the Secretary determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Secretary shall include in his annual report under section 375(e) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Secretary under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) TECHNICAL AMENDMENTS.—(1) Section 376 of such Act is amended by—

(A) inserting "or 374A" after "section 372" in subsection (b), and

(B) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

(2) The table of contents of such Act is amended by inserting after the item relating to section 374 the following new item:

"374A. Targets for use of recovered materials.".

TITLE V—FEDERAL ENERGY INITIATIVE

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

SEC. 501. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsections:

"(d) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(e) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

SEC. 521. DEFINITIONS.

As used in the part—

(1) The term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "Federal building" means any building or other structure owned in whole or part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water.

(4) The term "solar heating and cooling" means the use of solar energy to provide all or part of the heating needs of a Federal building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

(5) The term "solar energy equipment" means equipment for solar heating or solar heating and cooling.

(6) The term "Secretary" means the Secretary of Energy.

SEC. 522. FEDERAL SOLAR PROGRAM.

The Secretary, in consultation with the Administrator of the General Services Administration, shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 523. DUTIES OF SECRETARY.

(a) DUTIES.—In exercising the authority provided by section 522, the Secretary, in consultation with the Administrator of the General Services Administration, shall—

(1) promulgate, by rule—

(A) requirements under which Federal agencies shall submit proposals for the installation of solar energy equipment in Federal buildings which are under their control and which are selected in accordance with procedures set forth in such rule, and

(B) criteria by which proposals under subparagraph (A) will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value, as determined by the Secretary, of the costs and benefits of the proposal to the Federal agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of types of Federal buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(2) evaluate in writing each such proposal pursuant to the criteria promulgated pursuant to paragraph (1)(B), and make such evaluation available to the agency and, upon request, to any person;

(3) provide technical and financial assistance by interagency agreement for implementing a proposal evaluated under paragraph (2) and approved by the Secretary; except that such assistance shall be limited to the design, acquisition, construction, and installation of solar energy equipment;

(4) provide, by rule, that Federal agencies report to the Secretary periodically such information as they acquire respecting maintenance and operation of solar energy equipment for which assistance is provided under paragraph (3);

(5) require that a life cycle cost analysis in accordance with part 3 be done for any Federal building for which a proposal is submitted under this section and the results of such analysis be included in such proposal; and

(6) if solar energy equipment for which assistance is to be provided under paragraph (3) is not the minimum life-cycle cost alternative, require the Federal agency involved to submit a report to the Secretary stating the amount by which the life-cycle cost of such equipment exceeds the minimum life-cycle cost.

(b) CONTENTS OF PROPOSALS.—Proposals under paragraph (1)(A) of subsection (a) shall include a list of the specific Federal buildings proposed to be provided with solar energy equipment, the funds necessary for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Secretary.

(c) INITIAL SUBMISSION OF PROPOSALS.—Under the requirements established under subsection (a)(1)(A), initial proposals for the installation of solar energy equipment in Federal buildings selected under subsection (a)(1)(A) shall be submitted not later than 180 days after the date of promulgation of the rule under subsection (a)(1).

SEC. 524. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary through fiscal year ending September 30, 1980, to carry out the purposes of this part not to exceed $100,000,000. Funds so appropriated may be transferred by the Secretary to any Federal agency to the extent necessary to carry out the purposes of section 523(a)(3).

PART 3—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

SEC. 541. FINDINGS.

The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures and in promoting the use of solar heating and cooling and other renewable energy sources.

SEC. 542. POLICY.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation, solar heating and cooling, and other renewable energy sources in Federal buildings.

SEC. 543. PURPOSE.

It is the purpose of this part to promote—

(1) the use of commonly accepted methods to establish and compare the life cycle costs of operating Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation, and

(2) the use of solar heating and cooling and other renewable energy sources in Federal buildings.

SEC. 544. DEFINITIONS.

For purposes of this part—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a system-

atic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

(3) The term "preliminary energy audit" means a determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building and the climate characterizing the region where such building is located.

(4) The term "energy survey" means a procedure to be used in determining energy conservation and cost savings likely to result from appropriate energy conserving maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related fixtures to a Federal building.

(5) The term "Federal building" means any building, structure, or facility which is constructed, renovated or leased or purchased in whole or in part for use by the United States, and which includes a heating system, a cooling system, or both.

(6) The term "construction" means construction and substantial reconstruction or renovation, as determined under rules prescribed by the Secretary.

(7) The term "energy performance target" means a rate of energy consumption which is the minimum practically achievable, taking into account life-cycle cost, by adjusting maintenance and operating procedures, or by modifying a Federal building's equipment or structure, or both.

SEC. 545. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

(a) Establishment of Life Cycle Cost Methods.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

(1) establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings; and

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established and in conducting preliminary energy audits required by section 547.

(b) Use of Life Cycle Costs.—All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, cost evaluation shall be made on the basis of life cycle cost rather than initial cost.

(c) Use in Non-Federal Structures.—The Secretary shall make available to the public information on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

SEC. 546. ENERGY PERFORMANCE TARGETS FOR FEDERAL BUILDINGS.

The Secretary, in consultation with the Administrator of the General Services Administration, the Director of the National Bureau of Standards, and the Director of the Office of Management and Budget, shall establish and publish energy performance targets for Federal buildings, and shall take such actions as may be necessary or appropriate to promote to the maximum extent practicable achievement of such targets by Federal buildings. The performance targets established under the preceding sentence shall be compatible with energy conservation performance standards adopted or developed by the Secretary of Housing and Urban Development for buildings.

SEC. 547. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a) AUDITS OF BUILDINGS WITH 30,000 OR MORE SQUARE FEET.—As soon as possible after the date of the enactment of this part, each Federal agency shall conduct, to the maximum extent feasible, a preliminary energy audit, of all Federal buildings under its jurisdiction, occupancy, or control which contain 30,000 or more square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1979.

(b) AUDITS OF FEDERAL BUILDINGS WITH 1,000 OR MORE BUT LESS THAN 30,000 SQUARE FEET.—As soon as possible after the completion of the preliminary energy audits required under subsection (a) (and concurrently with such audits to the maximum extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all Federal buildings under its jurisdiction, occupancy, or control which contain 1,000 or more but less than 30,000 square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1980.

(c) RETROFIT OF FEDERAL BUILDINGS.—(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsections (a) and (b) appropriate Federal buildings under its jurisdiction, occupancy, or control for retrofit measures to improve their energy efficiency in general and to minimize their life cycle cost. Such measures shall include, without being limited to, energy conservation measures, measures involving solar technology and other renewable energy resources, and any maintenance and operating procedures and particular energy-related modifications determined appropriate by an energy survey. In selecting the measures to be applied, Federal agencies shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or the installation of equipment.

(2) At least 1 percent of the total gross square floor footage contained in all Federal buildings which are under the jurisdiction, occupancy, or control of Federal agencies, and which are included in a preliminary energy audit conducted by such agencies under subsection (a) and (b) shall be retrofitted by such agencies under paragraph (1) pursuant to actions taken or arrangements made by such agencies during the first full fiscal year beginning after the date of the enactment of this part; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such fiscal years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) On or before January 1, 1990, all Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall be the subject of such retrofit measures under paragraph (1) as will assure their minimum life cycle costs.

SEC. 548. LEASED FEDERAL BUILDINGS.

In leasing buildings for its own use or that of another Federal agency, each Federal agency shall give appropriate preference to buildings which use solar heating and cooling equipment or other renewable energy sources or which otherwise minimize life cycle costs.

SEC. 549. BUDGET TREATMENT OF ENERGY CONSERVING IMPROVEMENTS BY FEDERAL AGENCIES.

Each Federal agency, in the preparation and submission of its requests to the Congress for appropriations, and authorizations for appropriations, for any fiscal year beginning after the date of the enactment of this Act, shall specifically set forth and identify in a separate line item or items—

(1) the funds requested for retrofit measures to be undertaken under this part; and

(2) the portion of any other funds requested which represent to the maximum extent practicable the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy and other renewable energy sources.

SEC. 550. REPORTS.

Each Federal agency shall periodically furnish the Secretary with full and complete information on its activities under this part, and the Secretary shall annually submit to the Congress a comprehensive report on all activities under this part and on the progress made toward achievement of the objectives of this part.

SEC. 551. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for the fiscal year ending September 30, 1979, to enable him to perform the analytical and administrative functions vested in him under this part.

PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

SEC. 561. SHORT TITLE OF PART.

This part may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 562. DEFINITIONS.

For purposes of this part—

(1) The term "Federal facility" means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(2) The term "Secretary" means the Secretary of Energy.

SEC. 563. PHOTOVOLTAIC ENERGY PROGRAM.

There is hereby established a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in Federal facilities.

SEC. 564. PURPOSE OF PROGRAM.

The purpose of the program established by section 563 is to—

(1) accelerate the growth of a commercially viable and competitive industry to make photovoltaic solar electric systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(2) reduce fossil fuel costs to the Federal Government;

(3) stimulate the general use within the Federal Government of methods for the minimization of life cycle costs; and

(4) develop performance data on the program established by section 563.

SEC. 565. ACQUISITION OF SYSTEMS.

The program established by section 563 shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability by the Secretary for their use by Federal agencies. The acquisition of photovoltaic solar electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

SEC. 566. ADMINISTRATION.

The Secretary shall administer the program established under section 563 and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of photovoltaic solar electric systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this part; and

(3) report annually to the Congress on the status of the program.

SEC. 567. SYSTEM EVALUATION AND PURCHASE PROGRAM.

(a) PROGRAM.—The Secretary shall establish, within 60 days after the date of the enactment of this part, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring photovoltaic solar electric systems under this part, the Secretary shall insure that such systems reflect to the maximum extent practicable the most advanced and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States, and to stimulate the private sector market for photovoltaic power systems. The Secretary shall, subject to the availability of appropriated funds, procure not more than 30 megawatts of photovoltaic solar electric systems during fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(b) OTHER PROCUREMENT.—Nothing in this part shall preclude any Federal agency from directly procuring a photovoltaic solar electric system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall consult with the Secretary before procuring such a system.

SEC. 568. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part.

(b) MEMBERSHIP.—Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

(c) TERMINATION.—The advisory committee shall terminate October 1, 1981.

SEC. 569. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of this part, there is authorized to be appropriated to the Secretary not to exceed $98,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES

PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING

SEC. 601. INDUSTRIAL ENERGY EFFICIENCY REPORTING.

(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—Section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is amended—

(1) in the first sentence by inserting "(a)" before "Within";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new subsection:

"(b) Within 90 days after the date of the enactment of this subsection, the Secretary shall identify each corporation which consumes at least one trillion British thermal units of energy per year and which is within a major energy-consuming industry identified under subsection (a).".

(b) REPORTS.—Section 375 of such Act (42 U.S.C. 6345) is amended to read as follows:

"REPORTS

"SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Secretary pursuant to section 373 shall report to the Secretary on an annual basis (as determined by the Secretary) on the progress such corporation has made in improving its energy efficiency. Such report shall contain such information as the Secretary determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Secretary shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

"(b) Each report to the Secretary under subsection (a) shall include data aggregated to SIC codes from plant reporting forms in a manner to be determined by the Secretary.

"(c) Each plant shall periodically file a plant reporting form with its corporation at the corporation's headquarters within the United States. Each plant reporting form will be retained by the plant's corporation at its headquarters for at least 5 years. Such forms will be made available to the Secretary for verification purposes upon request, but information from forms made so available shall not be released to the public.

"(d) The Secretary shall prepare, publish, and make available for use in complying with the reporting requirements under subsections (a) and (c), forms which shall be designed in such a way as to avoid imposing on any corporation which is required to submit reports under subsection (a) an undue burden with respect to the corporation or any plant of such corporation.

"(e) The Secretary shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

"(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Secretary,

"(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any, and

"(3) recommendations to the Congress as to how additional improvements might be achieved.".

(c) Definition of Plant.—Section 371 of such Act (42 U.S.C. 6341) is amended by adding after paragraph (4) the following new paragraphs:

"(5) The term 'plant' means an economic unit at a single physical location where industrial processes are performed, as determined by the Secretary, and may be referred to as a factory, a mill, or an establishment.

"(6) The term 'United States' means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.".

PART 2—STATE ENERGY CONSERVATION PLANS

SEC. 621. STATE ENERGY CONSERVATION PLANS.

Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(d)) is amended—

(1) by striking out "and"; and

(2) by striking out the period and inserting in lieu thereof the following: ", and $50,000,000 for fiscal year 1979.".

SEC. 622. SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.

Section 367(c) of the Energy Policy and Conservation Act is amended by striking out "$40,000,000 for fiscal year 1979" and inserting in lieu thereof "$50,000,000 for fiscal year 1979".

SEC. 623. REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS.

Not later than 6 months after the date of the enactment of this section, the Secretary of Energy shall submit to the Congress a report on the coordination of Federal energy conservation programs involving State and local government.

PART 3—MINORITY ECONOMIC IMPACT

SEC. 641. MINORITY ECONOMIC IMPACT.

"(a) ESTABLISHMENT OF OFFICE OF MINORITY ECONOMIC IMPACT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131-7139) is amended by adding at the end thereof the following new section:

"OFFICE OF MINORITY ECONOMIC IMPACT

"SEC. 211. (a) There shall be established within the Department an Office of Minority Economic Impact. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Director shall have the duty and responsibility to advise the Secretary on the effect of energy policies, regulations, and other actions of the Department and its components on minorities and minority business enterprises and on ways to insure that minorities are afforded an opportunity to participate fully in the energy programs of the Department.

"(c) The Director shall conduct an ongoing research program, with the assistance of the Administrator of the Energy Information Administration, and such other Federal agencies as the Director determines appropriate, to determine the effects (including the socio-economic and environmental effects) of national energy programs, policies, and regulations of the Department on minorities. In conducting such program, the Director shall, from time to time, develop and recommend to the Secretary policies to assist, where appropriate, such minorities and minority business enterprises concerning such effects. In addition, the Director shall, to the greatest extent practicable—

"(1) determine the average energy consumption and use patterns of minorities relative to other population categories;

"(2) evaluate the percentage of disposable income spent on energy by minorities relative to other population categories; and

"(3) determines how programs, policies, and actions of the Department and its components affect such consumption and use patterns and such income.

"(d) The Director may provide the management any technical assistance he considers appropriate to minority educational institutions and minority business enterprises to enable these enterprises and institutions to participate in the research, development, demonstration, and contract activities of the Department. In carrying out his functions under this section, the Director may enter into contracts, in accordance with section 646 of this Act and other applicable provisions of law, with any person, including minority educational institutions, minority business enterprises, and organizations the primary purpose of which is to assist the development of minority communities. The management and technical assistance may include—

"(1) a national information clearinghouse which will develop and disseminate information on the aspects of energy programs to minority business enterprises, minority educational institutions and other appropriate minority organizations;

"(2) market research, planning economic and business analysis, and feasibility studies to identify and define economic opportunities for minorities in energy research, production, conservation, and development;

"(3) technical assistance programs to encourage, promote, and assist minority business enterprises in establishing and expanding energy-related business opportunities which are located in minority communities and that can provide jobs to workers in such communities; and

"(4) programs to assist minority business enterprises in the commercial application of energy-related technologies.

"(e)(1) The Secretary, acting through the Office, may provide financial assistance in the form of loans to any minority business enterprise under such rules as he shall prescribe to assist such enterprises in participating fully in research, development, demonstration, and contract activities of the Department to the extent he considers appropriate. He shall limit the use of financial assistance to providing funds necessary for such enterprises to bid for and obtain contracts or other agreements, and shall limit the amount of the financial assistance to any recipient to not more than 75 percent of such costs.

"(2) The Secretary shall determine the rate of interest on loans under this section in consultation with the Secretary of the Treasury.

"(3) The Secretary shall deposit into the Treasury as miscellaneous receipts amounts received in connection with the repayment and satisfaction of such loans.

"(f) As used in this section, the term—

"(1) 'minority' means any individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent;

"(2) 'minority business enterprise' means a firm, corporation, association, or partnership which is at least 50 percent owned or controlled by a minority or group of minorities; and

"(3) 'minority educational institution' means an educational institution with an enrollment in which a substantial proportion (as determined by the Secretary) of the students are minorities.

"(g) There is authorized to be appropriated to the Secretary to carry out the functions of the Office not to exceed $3,000,000 for fiscal year 1979, not to exceed $5,000,000 for fiscal year 1980, and not to exceed $6,000,000 for fiscal year 1981. Of the amounts so appropriated each fiscal year, not less than 50 percent shall be available for purposes of financial assistance under subsection (e).".

PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

SEC. 661. MAJOR FUEL BURNING STATIONARY SOURCE.

Part A of title I of the Energy Policy and Conservation Act is amended by adding at the end thereof a new section as follows:

"SEC. 107. (a) No Governor of a State may issue any order or rule pursuant to section 125 of the Clean Air Act to any major fuel burning stationary source (or class or category thereof)—

"(1) prohibiting such source from using fuels other than locally or regionally available coal or coal derivatives, or

"(2) requiring such source to enter into a contract (or contracts) for supplies of locally or regionally available coal or coal derivatives.

"(b)(1) The Governor of any State may petition the President to exercise the President's authorities pursuant to section 125 of the Clean Air Act with respect to any major fuel burning stationary source located in such State.

"(2) Any petition under paragraph (1) shall include documentation which could support a finding that significant local or regional economic disruption or unemployment would result from use by such source of—

"(A) coal or coal derivatives other than locally or regionally available coal,

"(B) petroleum products,

"(C) natural gas, or

"(D) any combination of fuels referred to in subparagraphs (A) through (C), to comply with the requirements of a State implementation plan pursuant to section 110 of the Clean Air Act.

"(c) Within 90 days after the submission of a Governor's petition under subsection (b), the President shall either issue an order or rule pursuant to section 125 of the Clean Air Act or deny such petition, stating in writing his reasons for such denial. In making his determination to issue such an order or rule pursuant to this subsection, the President must find that such order or rule would—

"(1) be consistent with section 125 of the Clean Air Act;

"(2) result in no significant increase in the consumption of energy;

"(3) not subject the ultimate consumer to significantly higher energy costs; and

"(4) not violate any contractual relationship between such source and any supplier or transporter of fuel to such source.

"(d) Nothing in subsection (a) or (b) of this section shall affect the authority of the President or the Secretary of the Department of Energy to allocate coal or coal derivatives under any provision of law.

"(e) The terms 'major fuel burning stationary source (or class or category thereof)' and 'locally or regionally available coal or coal derivatives' shall have the meanings assigned to them for the purposes of section 125 of the Clean Air Act.".

PART 5—STUDIES

SEC. 681. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

"SEC. 385. Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study.".

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part H the following:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-Highway motor vehicle conservation study.".

SEC. 682. BICYCLE STUDY.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefit through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

SEC. 683. SECOND LAW EFFICIENCY STUDY.

(a) STUDY.—(1) The Secretary of Energy, in consultation with the Director of the National Bureau of Standards and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the use of the concept of energy efficiency as being the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task.

(b) REPORT.—A report on the study under subsection (a) shall be submitted to the Congress within 12 months after the date of enactment of this Act. The programs to be covered by such study include—

(1) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act, and this Act;

(2) appropriate Federal programs in energy research, development, and demonstration.

(c) CONTRACT PROCEDURE.—Any contract in connection with the study or report under this section shall be made by advertising and shall be in accordance with procedures established under the Federal Property and Administrative Services Act.

PART 6—TECHNICAL AMENDMENTS

SEC. 691. DEFINITION OF ADMINISTRATOR.

(a) IN GENERAL.—Paragraph (1) of section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202(1)) is amended to read as follows:

"(1) The term 'Secretary' means the Secretary of Energy.".

(b) CONFORMING AMENDMENTS.—(1) Section 527 of such Act (42 U.S.C. 6397) is hereby repealed.

(2) Such Act is amended by striking out "Administrator" and "Administrator's" each place they appear (unless the context indicates a reference other than to the Administrator of the Federal Energy Administration) and inserting in lieu thereof "Secretary" or "Secretary's", respectively.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-431 (Comm. on Ways and Means) and No. 95-1751 (Comm. of Conference).
SENATE REPORTS: No. 95-424 (Comm. on Finance) and No. 95-1294 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Sept. 13, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; agreed to Senate amendment No. 3 with an amendment.
Vol. 124 (1978): Oct. 9 Senate agreed to conference report.
Oct. 15, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 45: Nov. 9, Presidential statement.